

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Appeal No. 15072, of Floyd Brown on behalf of Advisory Neighborhood Commission 6A, pursuant to 11 DCMR 3200.2 and 3105.1, from the decision of Joseph F. Bottner, Jr., Zoning Administrator, made on February 7, 1989, to the effect that for a laundromat to change hours to a 24-hour operation does not constitute a change of capacity, in an R-4 District at premises 1101 C Street, N.E., (Square 987, Lot 803).

HEARING DATE: July 7, 1989
DECISION DATE: July 28, 1989

FINDINGS OF FACT:

1. By order entered on October 19, 1965, in Application No. 8407, this Board approved a change of nonconforming use from grocery store to coin-operated laundry at 1101 C Street, N.E., Lot 803, Square 987 ("premises"), subject to one condition. The condition related to neon and gas tube displays.
2. By order entered on July 19, 1967, in Application No. 9278, the Board approved a change in nonconforming use from coin-operated laundry to coin-operated laundry and dry cleaning pick-up agency at the premises, again subject to the one condition relating to neon and gas tube displays.
3. On March 27, 1967, the District of Columbia issued Certificate of Occupancy B-55664, authorizing the first floor of the premises to be used as a coin-operated laundry, subject to the condition about neon and gas tube displays.
4. On May 28, 1969, a duplicate Certificate of Occupancy to the same effect, No. B-70507, was issued.
5. No Certificate of Occupancy has been issued to include the dry cleaning pickup agency. The coin-operated laundry simply continued to operate as such.
6. On January 9, 1989, the District of Columbia issued Certificate of Occupancy No. 1890031 to operate a coin-operated laundry, "occupancy load 40 [machines]."
7. For over 15 years, the laundry was operated from 6:00 a.m. to 10:00 p.m. on weekday, and from 6:00 a.m. until 11:00 p.m. on weekends. The owners of the laundry propose to operate the laundry 24 hours each day.

8. By letter dated February 7, 1989, in reply to an inquiry from ANC 6A, the Zoning Administrator ruled that the extension of the operating hours of the laundromat to 24 hours a day would not constitute a "change in capacity."

9. Nothing in the record before the Board indicates that the operation of the laundromat has been extended beyond the floor area on the first floor that the nonconforming use is entitled to occupy.

10. ANC 6A has expressed the following issues and concerns:

- a. The laundromat is located in a strictly residential area;
- b. The laundromat provides no parking, and is located in an area where the available parking is inadequate;
- c. The additional 8 hours of daily operation, from 10:00 p.m. to 6:00 a.m. is a "change in capacity";
- d. The addition of one employee and seventeen machines each constitute a "change in capacity";
- e. The laundromat will increase traffic congestion;
- f. The presence of the laundromat will generate criminal activity; and
- g. A limitation on the hours of operation should be implicit in Board Orders 8407 and 9278, because when the Board originally approved the laundromat use in 1965, it could not have anticipated that a 24-hour operation might be considered, and that an explicit limitation on hours of operation would be required.

CONCLUSIONS OF LAW:

1. 11 DCMR 2002 regulates nonconforming uses within structures. That section prevents the extension of a nonconforming use to a portion of a structure that is not devoted to the use at the time of the amendment to the Zoning Regulations that renders the use nonconforming.

2. Neither the term "change in capacity" nor the term "increase in occupancy load" are used in 11 DCMR 2002 to limit or regulate nonconforming uses.

3. When this Board approved Application Nos. 8407 and 9278, it did not impose any limitation on the hours of operation, number of employees, or number of washing or drying machines.

4. The Zoning Administrator has no authority to limit the operation of an approved use by conditions that are not contained in either the Zoning Regulations or the orders of this Board that authorize the use.

5. The issues and concerns that are presented by ANC 6A do not establish a basis for reversing the decision of the Zoning Administrator, because they do not find support in the Zoning Regulations or in the orders of this Board that authorize the laundry operation.

6. The Zoning Administrator ruled correctly in the letter that is referenced in Finding of Fact No. 8.

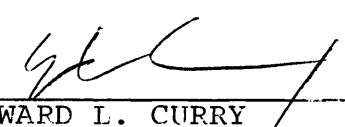
DECISION

Based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED that the Appeal be DENIED, and the decision of the Zoning Administrator AFFIRMED.

VOTE: 4-0 (Carrie L. Thornhill, Charles R. Norris, Paula L. Jewell, and William F. McIntosh to deny the appeal).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: _____


EDWARD L. CURRY
Executive Director

FINAL DATE OF ORDER: JUN 12 1990

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

appeal15072/BJW44

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



APPLICATION No. 15072

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order of the Board in the above numbered case, said Order dated JUN 12 1990, has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning these matters, and who is listed below:

James L. Williams, III
1531 A Street, S.E.
Washington, D.C. 20002

Floyd Brown
309 11th Street, N.E.
Washington, D.C. 20002

J. Kirkwood White
1450 G Street, N.W.
Wash., D.C. 20005

Yolanda Monroe Galloway
2480 16th Street, N.W., #42
Washington, D.C. 20009

Tyrone Anderson
401 K Street, N.W.
Washington, D.C. 20001

Joseph Suter
1101 C Street, N.E.
Washington, D.C. 20002

Craig K. Lisk
258 Warren Street, N.E.
Washington, D.C. 20002

A handwritten signature in dark ink, appearing to read "ELC", is written over a horizontal line.

EDWARD L. CURRY
Executive Director

DATE: JUN 12 1990